



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

September 19, 2017

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Joseph Percoco, et al.*, S2 16 Cr. 776 (VEC)

Dear Judge Caproni:

The Government respectfully writes to advise the Court that a second superseding indictment was returned earlier today by a Grand Jury sitting in this District. In sum, the revisions reflected in the S2 indictment are as follows:

- Count 15, the false statements charge against defendants Steven Aiello (“Aiello”) and Joseph Gerardi (“Gerardi”), has been divided into four separate charges, organized by defendant and subject matter, as the Government stated it intended to do in its pretrial motions in this case, and as the Court referenced in its July 18, 2017 Order [Dkt. No. 279].
- Certain language has been added or modified to provide further clarification of the Government’s theory of its case, including regarding the wire fraud charges.

Attached please find a courtesy copy of the S2 Indictment as well as a redline copy noting the changes from the S1 Indictment.

The Government, with the consent of all defendants, respectfully requests that time be excluded from today until January 8, 2018 for the January Trial Group,¹ and that time be excluded from today until June 11, 2018 for the Second Trial Group,² under the Speedy Trial Act, for the

¹ As defined by the Court, the January Trial Group consists of defendants Joseph Percoco, Aiello, Gerardi and Peter Galbraith Kelly, Jr., who will be tried jointly on Counts 6 through 14 and Counts 17 and 18 of the S2 Indictment.

² The Second Trial Group consists of defendants Alain Kaloyeros, Aiello, Gerardi, Louis Ciminelli, Michael Laipple and Kevin Schuler, who will be tried jointly on Counts 1 through 5 and Counts 15 and 16 of the S2 Indictment.

same reasons set forth by the Court in its Order dated August 3, 2017 [Dkt. No. 307]. The parties also consent to defer arraignment on the S2 Indictment until the next pretrial conference.

Respectfully submitted,

JOON H. KIM
Acting United States Attorney

By: /s/
Janis Echenberg/Robert Boone/
David Zhou/Matthew Podolsky
Assistant United States Attorneys
(212) 637-2597/2208/2438/1947

cc: Counsel for all defendants (via ECF)